

**SANTA MONICA MOUNTAINS CONSERVANCY**

RAMIREZ CANYON PARK  
5750 RAMIREZ CANYON ROAD  
MALIBU, CALIFORNIA 90265  
PHONE (310) 589-3200  
FAX (310) 589-3207



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Planning Commission  
City of Los Angeles  
200 North Spring Street  
Los Angeles, California 90012

**Draft Protected Tree Ordinance Comments**  
**CPC-2004-2290-CA**

Dear Commission Members:

The Santa Monica Mountains Conservancy has reviewed the draft Protected Tree Ordinance that was considered by the Commission at its November 10, 2005 meeting. The Conservancy is in full support of all elements within that draft of the ordinance and urges the Commission to add the following language and components that are widely supported in the community and provide a much needed element of enforceability.

**Carryover of Violation Remediation Requirements to Subsequent Landowners**

The first set of changes needs to address the continuity of remediation requirements if trees are illegally cut down in the year prior to a property transferring to a new owner. Precisely, if a seller illegally cuts protected trees and that action remains undetected until after the sale of his or her property, the City has no recourse under the current draft. This loophole is too great and potentially damaging to the City's tree resources not to address it in the proposed ordinance. Fault and responsibility to remedy illegal tree removals must run with the land even if it adds a new burden of due diligence to buyers of property. The value of a tree protection ordinance is only a good as its enforcement. Hence, a buyer of property subjected to illegal protected tree removals done up to one year prior to the close of escrow would be subject to the same enforcement regulations as the perpetrator of the removals.

To provide full fairness to innocent buyers, some recourse must be provided. Ideally that recourse would occur as part of the due diligence and property inspection process between a buyer and a seller. However, until both the existence and scope of the Protected Tree Ordinance become better known, the City must require some type of notification for buyers to beware. We look to the City to best develop that notification mechanism.

**Potential for Building Moratoriums Post-Commencement of Construction**

As currently written the draft ordinance appears to provide no provision for the City to place a building moratorium on a property if tree removal violations occur after the

commencement of construction. That is too great of a loophole. We urge the Commission to modify the draft ordinance to provide for all the allowances of pre-construction moratoriums to violations that occur both during and after construction phases.

### **Offsite Planting of Replacement Trees**

The Conservancy is indifferent as to whether the offsite replacement tree program goes through the Bureau of Street Services (Street Trees Division) or the Department of Recreation and Parks Forestry Unit. The critical goal is that offsite replacement trees thrive and that they are located where they benefit both the public and wildlife. If a government agency is to assume responsibility for maintaining offsite trees, adherence to that responsibility must be adequately funded. That process also includes monitoring and reporting. It appears that the current draft provides no such funding mechanism.

The proposed simple equation of letting a landowner who removes one protected tree then pay the equivalent cost of two 15-gallon or greater size trees does not make provision for planting, maintenance and monitoring. A bare minimum, fair additional cost is to add two hours of time to site and plant each tree, three hours a year to monitor each tree for four years, one hour a year to replace dead new trees throughout the City as necessary, and four hours total to track the trees progress and administratively document their success. This list adds up to 19 hours of funded staff time over four years to ensure tree survival. At \$60.00 per hour to cover all work benefits, administrative costs, and vehicle/equipment costs that comes to \$1,140 per tree on top of the cost of buying and obtaining delivery of the tree. To round up for inflation and both human and wildlife vandalism variables, we urge the Commission to charge, at a minimum, an additional \$1,200 for each tree to be planted offsite by a public agency. As a note, that amount includes no provision for water costs, irrigation costs, or if, as is often necessary, the cost of having a water meter installed. True costs are probably closer to \$1,500 per tree particularly if those trees are to have a good geographic spread throughout the City.

### **Addition of Cooperative Agreement Provisions with MRCA**

Because the Mountains Recreation and Conservation Authority (MRCA) owns and manages thousands of open space acres marbled throughout the natural areas within the City boundaries, it may behoove the Commission to add a provision that allows for cooperative tree planting agreements with the MRCA. To assure that trees removed from natural areas are returned to a near proximate location, it would be essential to plant on lands currently (and in the future) managed by the MRCA. The MRCA has personnel and water infrastructure throughout the City. That resource should be taken advantage of in this program.

**Scaling of Required Number of Replacement Trees and Size of Replacements**

The draft ordinance possibly should be more specific about the Board of Public Works authority to determine the size and number of replacement trees approximating the value of the tree to be replaced. Our thought is to provide fair warning to those who plan to remove protected trees that the price may be steep. For example, if it is stated that the Board can use the valuation ratios set by other municipalities or a ratio based on replacement of equivalent trunk cross-sectional area or total canopy perimeter area (or a combination of the two), the Board's ability to provide the maximum public benefit may be better supported and understood.

Our staff recommends that all replacement trees in natural areas not exceed 15-gallon container size and have a minimum height requirement of just five feet. Fifteen gallon trees are easier to establish with bare minimum water and maintenance regimes. Generally too, more squat or compact trees are less susceptible to wind damage, vandalism, and drought, and they ultimately have better branch structure. In lieu of allowing the planting of smaller trees, we urge that the Ordinance require survival for a full four years in natural areas. Trees remain vulnerable to death for a much longer time when planted in more natural settings that contain numerous deleterious variables.

Please direct any comments and future correspondence to Paul Edelman, Deputy Director of Natural Resources and Planning, at the above address and by phone at 310-589-3200 ext. 128.

Sincerely,

ELIZABETH A. CHEADLE  
Chairperson